IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1743 OF 2006
IN
WRIT PETITION NO.469 OF 2005

Shri.Sambhaji Appaso Chavan ...Applicant.
Vs.
Shri.Raosaheb Ananda Sanadi
and 18 Ors. ...Respondents.

Mr.Sandesh D.Patil, Advocate for the applicant.
Mr.Amit Sale, Advocate for the Respondents.
Ms.P.S.Cardozo, AGP, for State-Respondents 2 to 4..

CORAM : SMT.RANJANA DESAI AND
SMT.V.K.TAHILRAMANI,JJ.

DATED : OCTOBER 10, 2006.

P.C.:-

1. Heard learned counsel for the parties. Leave to amend. Amendment to be carried out forthwith.

2. In this civil application, the applicant, who is original respondent No.24 in the writ petition, has prayed that pending hearing and final disposal of the writ petition respondents 2, 3 & 4 i.e. the State of Maharashtra, the Collector Sangli, and the Tahsildar, Jath be directed to release the remuneration outstanding in the account of the applicant and respondents 6 to 19 and they may be

further directed to make payment punctually.

3. In the instant writ petition there is a challenge to the appointment to the post of Kotwals in Jath Taluka, District - Sangli. The petitioner has prayed that order dated 11.01.2005 issued by the Tahsildar, Jath appointing the respondents to the post of Kotwal be set aside. This petition was admitted on 4th July, 2005. The petitioner had prayed that pending hearing and final disposal of the writ petition, the effect, operation and implementation of order dated 11.1.2005 issued by the Tahsildar, Jath be stayed. That prayer was rejected. The interim relief having been rejected, admittedly, the respondents have been working as Kotwals from 11.1.2005.

4. In response to the civil application, an affidavit is filed by Mr.Nilprasad Namdeo Chavan, the incharge Tahsildar, Jath, District - Sangli. In the affidavit Mr.Nilprasad Chavan has stated that by letter dated 10th February, 2005 the Sub-Divisional Officer, Miraj Sub Division, Miraj has informed his office that the status quo be maintained in respect

of the appointments of Kotwals. It is further stated that by letter dated 1st August, 2005 the then Tahsildar, Jath has sought guidance from the Collector, Sangli regarding the payment to be made to the Kotwals. Copies of both these letters are annexed to the affidavit-in-reply of Mr.Nilprasad Chavan, the incharge Tahsildar, Jath.

5. Affidavit is also filed by Mr.Rajendra R. Chavan, Collector, Sangli. In his affidavit, the Collector has stated that as regards non disbursement of salary no instructions have been issued from the Collector's office to the Tahsildar to stop the payment of salary. He has stated that letter dated 10th February, 2005, to which reference is made by the Tahsildar in his affidavit, refers to appointments only.

6. It is clear from the above affidavit of Collector, Sangli that though the Tahsildar has sought guidance from the Collector as to whether payment should be made to Kotwals or not in view of pendency of the writ petition, the Collector has thought it fit not to give advise to the Tahsildar.

On the contrary, he has stated that it is the Tahsildar who is the appointing authority and he is fully competent to decide all the matters in respect of appointments of Kotwals and he has issued no instructions to the Tahsildar to stop the payment of salary of Kotwals.

7. In view of the fact that admittedly from 11.1.2005 the applicant and respondent Nos.6 to 19 are working in the office of Tahsildar, Jath as Kotwals, they must be paid remuneration which is due to them, as per law, for the service rendered by them. If there are any arrears, they will be entitled to arrears also. There can be no dispute about the fact that since the appointments of the Kotwals are under challenge, all actions taken including the payments made to them in this matter during pendency of the instant writ petition shall be subject to final orders which may be passed in this writ petition. Hence, we pass the following order :

ORDER

i. Respondents 2 to 4 are directed to

pay the monthly remuneration to the applicant and respondents 6 to 19 as per law.

ii. If there are any arrears, the respondents 2 to 4 are further directed to pay the same to the applicant and respondents 6 to 19 as per law.

iii. We make it clear that all actions taken including payments made during the pendency of the instant writ petition, shall be subject to final orders that may be passed in the instant writ petition.

iv. We have not expressed any opinion on the merits of the case.

v. Civil application is disposed of accordingly.

[SMT.RANJANA DESAI,J.]

[SMT.V.K.TAHILRAMANI,J.]